



COMMONWEALTH OF KENTUCKY

DEPARTMENT OF PUBLIC ADVOCACY

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December 7, 2011

Hon. Jack Conway
Attorney General
Commonwealth of Kentucky
Capitol Building, Suite 118
700 Capital Avenue
Frankfort, KY 40601

RE: Report of the American Bar Association Assessment of the Administration of the Death Penalty in Kentucky

Dear General Conway,

As you know, the American Bar Association in conjunction with the Kentucky Death Penalty Assessment Team, a group of independent, highly respected Kentuckians, has objectively reviewed the fairness, accuracy and reliability of Kentucky's system of administering the death penalty in light of established national standards. Their comprehensive two-year study resulted in a 520-page report that found serious flaws in our system, such that they have called for a suspension of executions in Kentucky until the problems are corrected.

Since 1967, Kentucky has executed three people, two of whom were volunteers. During that same period of time, three Kentucky Governors have granted clemency to five people sentenced to death.

Public defenders are appointed to represent the vast majority of those who are charged with capital offenses and who are currently imprisoned on Kentucky's death row. Defenders play a critical role in ensuring that full due process of law is accorded to their clients. There are individuals on death row who are severely mentally ill, who were represented by lawyers that were ineffective, and who had trials in which significant errors occurred that went uncorrected. There are serious and disturbing questions about the convictions of a number of inmates who are now facing execution, particularly in those cases that were tried years ago by unqualified lawyers lacking adequate resources.

The ABA report found an error rate of approximately 60% in Kentucky capital cases. This error rate is unacceptable. It is compelling evidence that indicates the system is broken.

The report's recommendations are in line with the views of Kentuckians. "Widespread support for capital punishment no longer exists" in Kentucky. See Gennaro F. Vito, *Attitudes Toward the Death Penalty in*

Kentucky: A Comparison of results – 1989, 1997, 1999, Kentucky Justice and Public Safety Bulletin, Volume 3, No. 1 (September 2001) p 3.

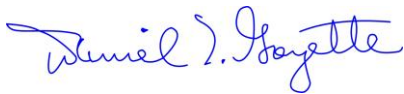
As a responsible professional and one of the leaders in our criminal justice system, we are confident that you will agree that we should not proceed with executions until the recommendations of this comprehensive, evidence-based, independent evaluation are fully implemented. To do otherwise would cast significant doubt on the fairness and propriety of imposing the ultimate punishment. We have a fundamental responsibility to avoid at all costs the possibility of making an unjust and irreversible mistake.

We respectfully ask that you not request any execution warrants until the Kentucky Death Penalty Assessment Team recommendations are fully implemented.

Sincerely,



Edward C. Monahan
Public Advocate



Daniel T. Goyette
Louisville Metro Public Defender

ECM/DTG:jl

